

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration Department

PLANNING SUB COMMITTEE A		AGENDA ITEM: B3
Date:	27 th March 2018	NON-EXEMPT

Application number	P2017/2685/FUL
Application type	Full Planning Application
Ward	Junction Ward
Listed building	None
Conservation area	Highgate Hill Conservation Area
Development Plan Context	<ul style="list-style-type: none">- Archway Core Strategy Key Area- Highgate Hill Conservation Area- Highgate Hill Local Shopping Area- Locally Listed Shopfront- Article 4 Direction (A1-A2)
Licensing Implications	Not Applicable
Site Address	89 Highgate Hill, London, N19 5NE
Proposal	Flexible change of use of A4 (public house) unit at ground/basement floors comprising 140sqm to retail (A1), financial and professional service (A2) and offices (B1(a)) uses.

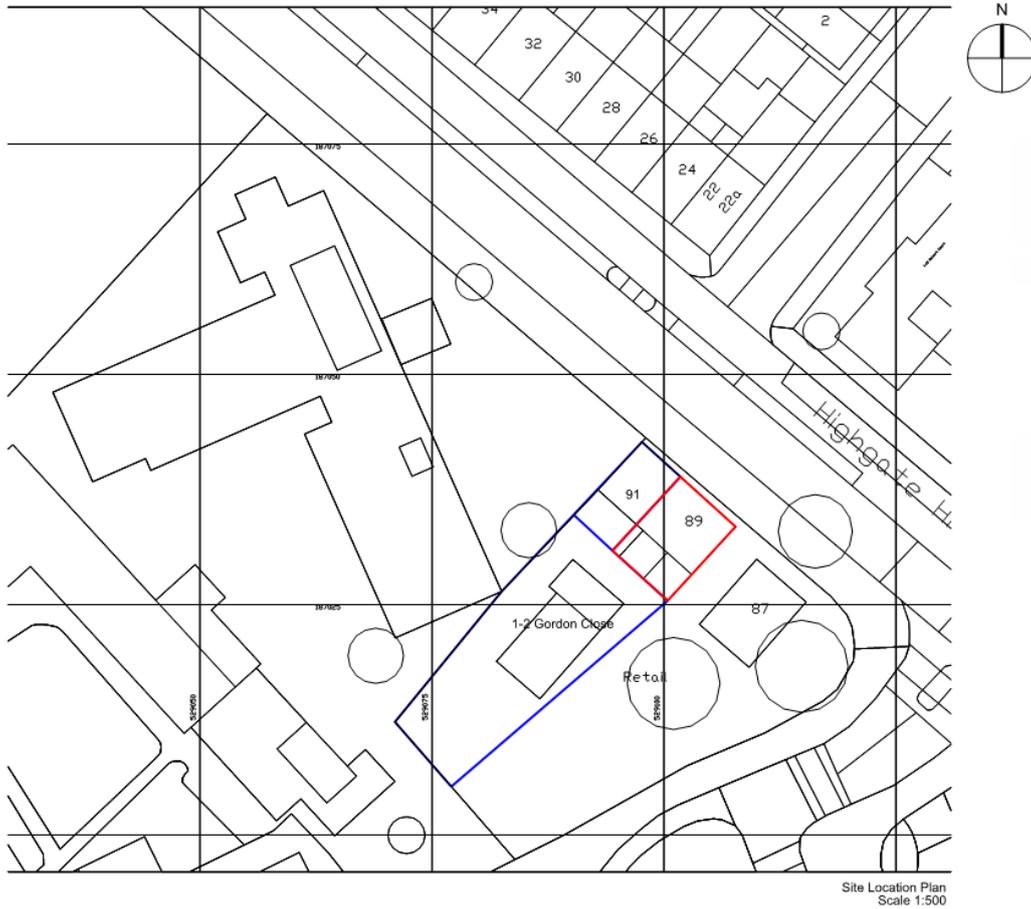
Case Officer	Joe Aggar
Applicant	Highgate Hill Developments Ltd
Agent	Martin Robeson Planning Practice

1. RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission:

1. subject to the conditions set out in Appendix 1.

2. SITE PLAN (site outlined in black)



3. PHOTOS OF SITE/STREET



Image 1 – Front elevation (looking south).



Image 2 – Front elevation (looking north).



Image 3 – Aerial view of site and surroundings.



Image 4 – Aerial view of site and surroundings.

4. SUMMARY

The buildings current lawful land use is a public house (A4). The upper floors comprise 3 no. residential units (1 x 3 bed 1 x 2 bed, and 1 x1 bed) to first, second and third floors (P2014/2472/FUL). The application site has a frontage on to Highgate Hill and is located within the Archway Core Strategy Key Area, Highgate Hill Conservation Area and Highgate Hill Local Shopping Area.

- 4.1 The application proposes the flexible change of use of the ground and basement floors (140sqm) from public house to retail (A1), financial and professional services (A2), Offices (B1a) to enable a mix of employment generating uses. The ground and basement floors are currently vacant and have been unoccupied for over 2 years.
- 4.2 It is considered the applicant has adequately demonstrated the marketing of the pub for a sufficient period of time to indicate there is not sufficient demand for the existing public house use. The proposed uses would also not have a negative impact in terms of the vitality and viability of either the Highgate Hill Local Shopping Area or the nearby Archway Town Centre. A flexible change of use and loss of public house is considered acceptable.
- 4.3 The development primarily involves the change of use of the ground and basement floors and would not involve external alterations. As such the proposal would have a neutral impact in the significance of the locally listed building and would have a neutral impact on the character and appearance of the Highgate Hill Conservation Area
- 4.4 The development involves no external physical changes and therefore in terms of the impact upon the amenity of neighbouring residential occupiers no further assessment in respect of daylight and sunlight, outlook or privacy is considered necessary. Whilst there is some small potential for the new operation to result in noise and disturbance to nearby properties from comings and goings it is considered these impacts can be suitably mitigated by planning permission conditions which restrict hours of use.
- 4.5 The change of use is unlikely to have any additional adverse impacts in terms of deliveries and servicing over and above that of the existing lawful public house use. No significant transport and parking impacts are anticipated by the scheme having regard to access, servicing, parking, trip generation, potential public transport impact and promotion of sustainable transport behaviour. The scheme also benefits from a highly sustainable location with an excellent public transport accessibility rating PTAL 6 a.
- 4.6 The public house is designated as an Asset of Community Value (ACV) and this is a material planning consideration. The primary purpose of ACV listing is to afford the community an opportunity to purchase the property, not to prevent development in accordance with the development framework.
- 4.7 On balance the proposed loss of the public house would not result in the unacceptable loss of a community facility in this instance and the introduction of retail, financial and professional services or offices is considered on balance acceptable within this Local Shopping Area and within the wider Archway Key Area. For these reasons and all the detailed matters considered in this report, the scheme is, on balance, considered acceptable subject to conditions and informatives.

5. SITE AND SURROUNDING

- 5.1 The application site comprises a rectangular plot that presents a frontage of 10m to the southwest side of Highgate Hill. The plot is completely covered by a Victorian building together with a small enclosed courtyard. The property is 3-storeys. The upper floors comprise three flats.
- 5.2 The application site is located on the southwest side of Highgate Hill, to the northeast of the large Whittington Hospital site. The property is a characteristic late 19th Century public house with a decorative and lively ground floor timber pub frontage and two plainer upper floors with a central first floor bay window. The Cat and Whittington shopfront is locally listed. The application building together with the site adjacent at 91 Highgate Hill form a detached element of the Highgate Hill Conservation Area. Adjoining the rear (southwest) of the site is a two storey residential building known as 1 Gordon Close, provided access via an alley from Highgate Hill. Adjacent to the northwest of the site is a modern, six storey building, with front and undercroft car park, which forms part of the St Marys Wing of Whittington Hospital. There are two small trees within the Hospital site directly adjacent to the edge of the application site.
- 5.3 To the northeast of the site, on the opposite side of Highgate Hill, is the junction of Highgate Hill and Despard Road, with a three storey terrace comprising ground floor commercial parade with residential above to the northwest of the junction (forming part of the Highgate Hill Local Shopping Area) and a large four storey block of flats to southeast of the junction. The character of the surrounding area is dominated by the Whittington Hospital and supports a mixture of commercial, residential and community use properties.
- 5.4 The application site is located approximately 250sqm from Archway Town Centre including the "Archway Tower and Island Site (the Core Site)". Archway is one of Islington's four designated town centres and contains a mix of retail, commercial, leisure and social / community uses as well as being home to a vibrant residential community.
- 5.5 The site is very well located in relation to public transport and has a PTAL rating of 6a, a high rating. The site is located approximately 300m metres from Archway Underground Station, which provides London Underground services on the Northern Line. The site is also served in relation to buses, with a bus routes extending along this stretch of Highgate Hill (271).

6. PROPOSAL (IN DETAIL)

- 6.1 The application sites current lawful is as a public house (A4), commonly known as the Whittington and Cat with 3 self-contained residential units within the building at 1st, 2nd and third floor levels. The application proposes the flexible change of use of 140sqm at ground and basement floors to retail (A1)/Financial and Professional services (A2) or office (B1a). The ground and basement floors are vacant.
- 6.2 The ground floor has a relatively large frontage and is accessed from Highgate Hill. There is a central door which provides access to the ground and basement floor level with a separate residential access. The unit consists of stair access to basement level. There are no external alterations proposed as part of the application.

Revisions secured during the application process:

- 6.3 The application has been amended from its original submission to omit previous proposals for a café (A3) and D2 (Assembly and leisure) from the application.

7. RELEVANT HISTORY

Planning Applications

- 7.1 The following previous planning applications relating to the application site are considered particularly relevant to the current proposal:

- 7.2 89 Highgate Hill, planning application re: P2017/0939/FUL for the 'Change of use of A4 (public house) unit at ground/basement floor levels to flexible uses comprising of the following: A1 Use (Retail)/ A2 Use (Professional Services) /A3 (Food and drink) /B1a Use (Business)/ D2 Use (Assembly and Leisure Use)' was REFUSED on the 17/05/2017.

REASON: The proposal would result in the unjustified loss of a public house which is of an asset of community value and would therefore constitute the loss of a service of particular value to the local community. Insufficient and non-robust evidence has been provided to show that the Public House has been marketed for a continuous period of 2 years or more and the submission has failed to demonstrate there is no realistic prospect of the unit being used as a Public House in the foreseeable future as required by policy DM4.10 of the Development Management Policies.

- 7.3 89 Highgate Hill, planning application re: P2014/2472/FUL for the 'Demolition of first floor rear extension and construction of a two storey rear/three storey side extension and alterations to the roof profile to the existing building; internal reconfiguration to provide 3 no. residential units (1 x 3 bed 1 x 2 bed, and 1 x1 bed) to first, second and third floors; provision of rear terrace and balconies; retention of ground floor A4 use' was APPROVED on the 10/03/2015.

- 7.4 89 Highgate Hill, planning application re: P2013/4103/FUL for the 'Insertion of ground floor door in side elevation' was REFUSED on the 05/02/2014.

- 7.5 89 Highgate Hill, planning application re: P122218 for the 'The demolition of building with retention of front elevation and the construction of 6x self-contained flats within a rebuilt three storey building, including a three storey side extension (also CAC planning reference P122219 submitted)' was REFUSED on the 11/12/2012. Appeal Dismissed.

REASON: The Public House has not been vacant for a continuous period of 2 years or more, indeed it is in active use. Consequently, no marketing evidence has been provided to demonstrate there is no realistic prospect of the unit being used as a Public House in the foreseeable future. The proposed alternative use will detrimentally affect the vitality of the area and the character of the street scene and the conservation area. The proposal constitutes the loss of a service of particular value to the local community. The proposal would be contrary to policy 4.8 (supporting a successful and diverse retail sector) and policy 7.1 (building London's neighbourhoods and communities), and DM27 of the emerging Development Management policies June 2012.

REASON: The proposed majority demolition of the building would substantially harm the significance of the non-designated heritage asset / locally listed building and Highgate Hill/Hornsey Lane Conservation Area. This harm is contrary to Policy 12 (conserving and enhancing the historic environment) of the National Planning Policy Framework 2012, policy 7.8 (sustaining and enhancing the significance of heritage assets) of the London Plan 2011 and policy CS9 (protecting and enhancing Islington's built and historic environment) of Islington's Core Strategy 2011 and policy DM3 (A, B and E) of the emerging Development Management policies June 2012.

REASON: The provision of six small residential units in the form presented is contrary to current policy. The six units are each presented as single aspect, show no evident storage/refuse/bicycle facilities, and have no external private or communal amenity space. The proposal is therefore contrary to policies D3, H3 and H7 of the Unitary Development Plan 2002, policy CS12 of the Core Strategy 2011 and policies DM11, DM12 and DM13 of the emerging Development Management policies.

7.6 89 Highgate Hill, planning application re: P102591 for the 'Two storey side extension. Two storey rear extension above the ground floor level. [Conservation Area Consent application ref: P102592 also submitted]' was WITHDRAWN.

7.7 89 Highgate Hill, planning application re: P041269 for the 'Demolition of existing building, retention of front wall and redevelopment to provide 6 x 1 bedroom flats' was REFUSED on the 29/03/2005. Appeal Allowed.

Enforcement

7.8 89 Highgate Hill, planning application re: E/2015/0225 for 'works to interior of building'. No breach, case closed 05/06/2015.

7.9 89 Highgate Hill, planning application re: E/2016/032 for 'Without planning permission, the material change of use of the Premises registered as an ACV'. No breach, case closed 05/06/2015.

8. CONSULTATION

Public Consultation

8.1 Letters were sent to occupants of 69 adjoining and nearby properties on Highgate Hill, Gordon Close, Whittington Hospital and Despard Road on 10 August 2017. The public consultation of the application therefore expired on 07 September 2017. A further period of consultation was carried out on the 06 November 2017 and expired on the 30 November 2017. This was due to the removal of A3 and D2 (Assembly and leisure) uses from the description of development. It is the Council's practice to continue to consider representations made up until the date of a decision.

8.2 At the time of the writing of this report 9 objections had been received from the public with regard to the application. These can be summarised as follows:

- Strongly object to A3 as any café would use the passage way for bin storage (**See paragraphs 10.50**)
- Object to use of B1 for any light industry as there are residential properties in the vicinity (**See paragraphs 10.52**)
- Object to assembly or leisure uses as this would lead to noise/music (**See paragraphs 10.50**)
- Loss of Asset of Community Value (**See paragraphs 10.19-10.21**)

- Change in ownership (**See paragraphs 10.51**)
- Breach of law regarding Asset of Community Value (**See paragraphs 10.19-10.21**)
- Asset of community value is a material planning consideration and can be used to refuse planning applications. (**See paragraphs 10.19-10.21**)
- Marketing exercise has been extremely discreet (**See paragraphs 10.5**)
- Increase in the population could revive the pub (**See paragraphs 10.53**)
- The property falls within a conservation area and change if use is contrary to the conservation Area Design Guidelines (**See paragraphs 10.32**)

Better Archway Forum: Object to the proposed development on the following grounds:

In adequate marketing of the vacant public house.

Lack of community consultation by applicants in relation to the unit's status as an Asset of Community Value (ACV).

Community should be approached to maintain the pub use.

External Consultees

8.3 None.

Internal Consultees

8.5 **Policy Officer:** The criteria in policy DM4.6 'Local Shopping Areas' is considered to have been satisfied in terms of the proposal does not jeopardise an appropriate mix and balance of uses in the LSA. Furthermore, a change of use to A1/A2/B1a would not have an adverse effect on vitality, viability and the retail function of the LSA. At present the premise's continued vacancy (around 3 years now) is more detrimental to the vitality of the LSA than another use occupying the unit. There is no objection to the application for change of use from A4 to A1/A2/B1a.

8.6 **Conservation Officer:** no objections.

8.7 **Environmental Protection Officer:** no objections.

8.8 **Highways Officer:** do not wish to make comment on the application

8.9 **Access Officer:** no demonstration has been made to bring the building up to contemporary standards. Object to the proposal.

9. RELEVANT POLICIES

Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following development plan documents.

9.1 Islington Council (Planning Committee), in determining this planning application, has the following main statutory duties to perform:

9.2 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:

- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and

subject to the conditions provided for by law and by the general principles of international law.

- Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

9.3 Members of the Planning Committee must be aware of the rights contained in the Convention (particularly those set out above) when making planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.

9.4 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.5 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees. **Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following documents:**

9.6 The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals. Since March 2014 Planning Practice Guidance for England has been published online.

Development Plan

9.6 The Development Plan is comprised of the London Plan 2016 (Consolidated with Alterations since 2011), Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

Supplementary Planning Guidance (SPG) / Document (SPD)

The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

10. ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Land Use
- Design, Conservation and Heritage
- Accessibility
- Neighbouring Amenity
- Highways and Transportation

Land-use.

10.2 The application proposes change of use of 140sqm of A4 (public house) over two floor levels at ground and basement, to flexible change of use consisting of retail (A1)/financial and professional services (A2) and office (B1(a)). The site is located within the Highgate Hill Local Shopping Area and within the Archway Core Strategy Key Area.

Loss of Public House

10.3 DMP Policy DM4.10 supports the retention of public houses and opposes their redevelopment, demolition and change of use unless specific criteria are fulfilled. One of the criteria is that a public house has been vacant for a continuous period of 2 years or more and continuous marketing evidence has been provided for the vacant period to demonstrate that there is no realistic prospect of the building being used as a public house in the foreseeable future. Other criteria include the effect on the viability of an area, the character of the streetscene and the loss of a service of particular value to the local community. There is some evidence from local residents' representations that the existing public house is considered to be a valued community facility.

10.4 Based on the applicants marketing information there have been 46 viewings of the property, with prospective tenants looking for an A4 use declining a lease. Factors contributing to this are:

no beer garden;

unsatisfactory layout;

the premise's being too small;

the area being too quiet to support a viable pub;

and the basement being too small for a kitchen to be installed.

There have also been viewings of the property from interested parties looking for non A4 use and several offers made including that for a children's day care café and an A1 retail unit.

10.5 The marketing evidence provided has exceeded the 2-year continuous marketing evidence requirement with viewings having taken place consistently from 10/03/15 to 26/05/17. This timeframe is considered to be satisfactory and conforms to the requirements of Appendix 11 of the DMP. The asking rent of £40,000pa is thought to be reasonable and is based on 12 comparable premises and the opinion of three RICS accredited chartered surveyors. The property has been registered with a

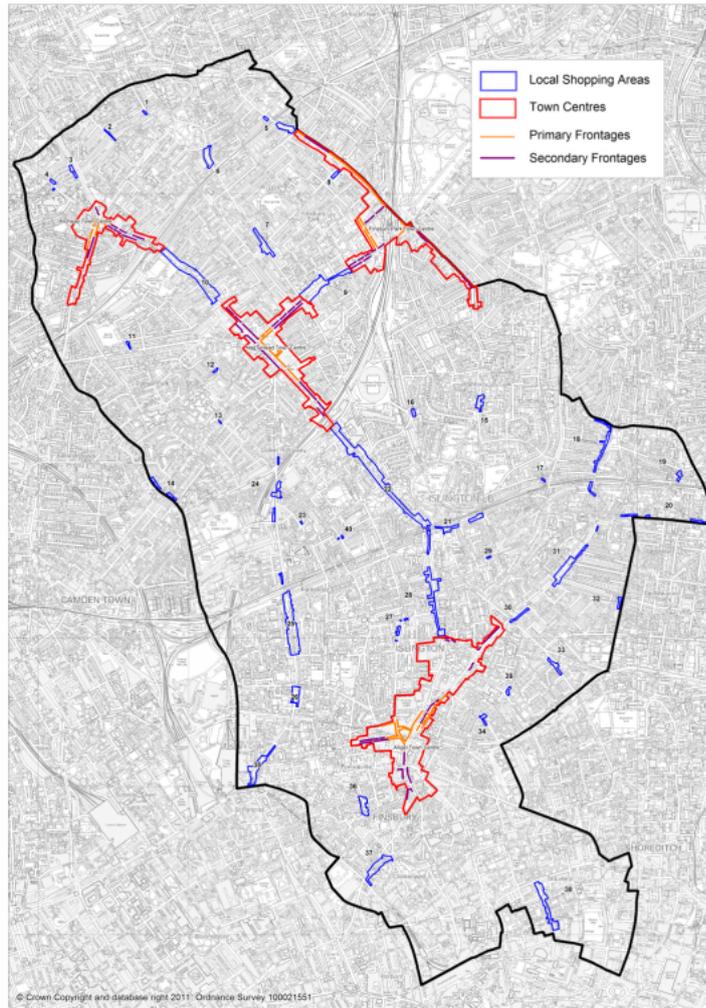
commercial property agent since early 2015. Overall the property has been continuously marketed and evidence provided to demonstrate this. As such the length of vacancy and marketing information is considered to satisfy the requirement in Appendix 11 of the DM Policy document and DM4.10.

- 10.6 The application site is within the Highgate Hill Local Shopping Area. This is disjointed from the parade of shops on the opposite side of the road and therefore its loss as a potential public house use would not detrimentally affect the vitality or character of the area and does not provide particular value to the local community, therefore satisfying part Bi and Bii of policy DM4.10. Additionally, the policy officer concludes that the current ongoing vacancy of the unit in itself harms the vitality and vibrancy of the Local Shopping Area.
- 10.7 The comments submitted by viewers of the property gave varied reasons as to why the property would not be suitable but an occurring reason was the lack of footfall along the road especially in the daytime. A more flexible use class, including (as the agent states) possibility to change to A1/A2/B1a uses would likely ensure the property comes back into use in the near future, according to the interested parties that have viewed the property.
- 10.8 On this matter it is concluded that the proposed development would not cause an unacceptable loss of a public house and would therefore not conflict with DMP Policy DM4.10. This policy is consistent with paragraph 70 of the National Planning Policy Framework (the Framework) which refers to guarding against the unnecessary loss of valued facilities and services, including public houses, particularly where this would reduce the community's ability to meet its day-to-day needs.

Local Shopping Area

- 10.9 Policy DM4.6 of Islington's DMP sets out specific measures in relation to local shopping areas such as the one within which the application site sits. This Policy states that proposals will only be permitted where an appropriate mix and balance of uses within the local shopping area, which maintains and enhances the retail and service function of the local shopping area, is retained.
- 10.10 The proposal for a flexible change of use including A1/A2 and B1(a) does not jeopardise an appropriate mix and balance of uses in the LSA and is considered to complement the existing uses. The proposal would restore an active use to the property, albeit with a differing pattern of activity to that of a pub. It would thus not have an adverse effect on the local shopping area's predominantly retail function particularly in the context of 3 years vacancy.
- 10.11 A change of use with the potential to bring an active use (A1/A2/B1) would not have an adverse effect on vitality, viability and the retail function of the LSA, it would in fact have a positive impact and increase the vitality and vibrancy of the surrounding area. The proposal is on balance considered in compliance with DM4.6 of the Development Management Policies.

Figure 3.1 Town Centre and Local Shopping Area designations



Map of Islington's Designated Town Centres and Local Shopping Areas.

Effect on Town Centre

- 10.12 The site is not located within a designated Town Centre. Policy DM4.4 states, applications for more than 80sqm of floor space for uses within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses to be located within designated Town Centres.
- 10.13 Policy DM4.4 is clear that suitable locations in the Town Centres must be considered first, then Local Shopping Areas or edge of Local Shopping Area locations. As such, in terms of policy, only suitable Town Centre locations need to be considered before Local Shopping Areas.
- 10.14 Where suitable locations within Town Centres are not available, Local Shopping Areas or edge-of-centre sites may be considered. Paragraph 4.26 of the Development Management Policies defines edge-of-centre sites as those which are well connected to and within easy walking distance of the nearest centre. With regards to Town Centres the sites should be within 300metres of a Primary or Secondary Frontage. For Local Shopping Areas sites should be within 300 metres of the boundary.

- 10.15 The NPPF advises when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre which this site can be considered to be. A retail impact assessment has not been submitted accompanying the application. However, the proposal comprises only 140sqm of floor space. This is a relatively small quantum of proposed floor space spread over 2 relatively narrow floorplates, when taken into account with the stated role and function of the proposal means that any effects would be small and localised.
- 10.16 Paragraph 24 of the National Planning Policy Framework states local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre. Paragraph 2b-001 of the Government's Planning Practice Guidance (PPG) advises how the sequential test should be used in decision making and states that it "should be proportionate and appropriate for the given proposal". Paragraph 2b.011 of the PPG states that the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. The application site is approximately 250m from the nearest Town Centre (Archway).
- 10.17 The applicant has submitted a sequential test in support of the application. The assessment was conducted for the Archway Town Centre taking into account vacant retail units within the designation. The applicant investigated 15 vacant properties. Of those identified, these are shown as either not present on the market or the internal floor area was not of a comparable size. Based on the information submitted, the sequential test assessment addresses the likely impact on the vitality and viability of the town centre and local shopping areas and concludes there would be no significant adverse impact from the introduction of the proposed flexible A1/A2 or B1(a) uses. Overall, the proposal would not conflict with the underlying objectives of Policy DM4.4 of the Islington Development Management Policies which seeks to protect the function of Town Centres.

Asset of Community Value

- 10.18 Third parties raise the related matter of the general community value of the pub. Reference is made to the Framework, which says at paragraph 60, albeit in the context of design, that it is proper to seek to promote or reinforce local distinctiveness. Paragraph 7 states that there is a social as well as environmental and economic dimension to sustainable development, which is a key tenet of the planning system. Paragraph 69 says that planning decisions should aim to promote opportunities for meetings between members of the community. Paragraph 70 requires, among other things, that planning should seek the provision of community facilities, including pubs, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs.
- 10.19 The listing of the premises as an ACV does provide a tangible demonstration that a section of the community considers that, through recreation, the pub furthered the social wellbeing or social interests of the local community, albeit the pub has been vacant since May 2014, as stated by the applicant. The fact the public house has not functioned for nearly 4 years and has been vacant for what is a significant period of time is a material planning consideration in this case.
- 10.20 The relevant ACV legislation sets out specific tests which are narrower than the planning considerations within this case. The primary purpose of ACV listing is to afford the community an opportunity to purchase the property, not to prevent

otherwise acceptable development. Accordingly, the listing is afforded some weight in this case but it is not determinative.

- 10.21 Significant in the assessment of the application is the period of vacancy with respect of planning policy. Based on the acceptability of the loss of the pub in land use terms and the appropriateness of the proposed uses, the public houses listing as an ACV is not considered to warrant refusal of the application. With regard to the viability and future potential use of the public house it is not considered the loss of the public house reduces the community's ability to meet its day to day needs in the context of this well-developed part of north London.
- 10.22 In this regard the application is considered compliant with Para. 70 of the NPPF which refers to guarding against unnecessary loss of valued facilities and services including public houses, particularly where this would reduce the community's ability to meet its day to day needs. It is therefore considered that the loss of the public house use has been satisfactorily justified against adopted planning policies DM 4.10 in this case.

Design and Conservation

- 10.23 The Development Management Policies identify that the borough contains a number of dispersed shops, traditional street markets, specialist shopping areas, Public Houses and community, social and cultural facilities. These facilities have an important role in providing accessible services, goods and meeting places to local communities. Such facilities are often important to the character and identity of a local area.
- 10.24 The site is located within the Highgate Hill Conservation Area and the shopfront is Locally Listed. Whilst not statutorily listed this part of the building represents its local significance. No external alterations are proposed to the building, however the change of use and its impact on the character and appearance of the conservation Area is considered.
- 10.25 The Conservation Area is predominantly residential but there are other elements that contribute to a Victorian character. The area is also dominated by the Whittington Hospital.
- 10.26 Islington's Development Management Policies DM2.1 and DM2.3 policies carry forward the statutory requirement that special consideration be given to preserving or enhancing the character or appearance of Conservation Areas and the advice in the National Planning Policy Framework ('the Framework') as to the treatment of development that affects heritage assets, including non-designated heritage assets. In support of these policies the relevant Conservation Area Design Guidelines explains, 'the Council will operate its land use policies so as to enhance the character and vitality of the area. Planning permission will not be granted to change, expand or intensify uses which would harm the character of the conservation area.' 'The Council recognises that often the best use for a building is that which it was designed for and will seek to retain public houses, shops and workshops in appropriate uses which will not diminish their special interest. The removal of individual established uses within the conservation area will not be permitted where they contribute to the character.'
- 10.27 Pubs can contribute positively to the character and appearance of the Conservation Area not only through the physical presence and features of the building but through long-established use. It is important to assess the significance of

the building itself, and the conservation area, as a heritage asset, before going on to assess the impact of the proposal.

- 10.28 This is a traditional pub which has existed since around the time the area was developed. Externally, the building exhibits a good architectural style which adds to the variety of the street scene. The public house is a reflection of the historical development of the site and of the wider Conservation Area and can be seen to contribute to the visual and functional distinctiveness of the setting.
- 10.29 The ground floor consists of a timber frontage; panelled stallrisers, five pilasters with four clear glass windows (lower half smoked) which adds a visual interest to the ground floor and represents reasoning for its locally listed. The rest of the building does not form a non-designated heritage asset and therefore can be seen to be of limited significance.
- 10.30 The ground and basement floors have been unoccupied for 3 years. Whilst it is argued that there would be loss of historical value from the change of use, it can be considered this would be offset by enlivening the street and the local shopping area through an active use. A material consideration in the assessment of this application is the previous planning appeal at the Whittington & Cat (APP/V5570/A/13/2192425 & APP/V5570/E/13/2192429). The Inspector found with respect to the of the upper floors and the proposed residential use *“the property is detached from the main part of the Conservation Area and is situated in a location which is physically dominated by the adjoining hospital use. Although there are commercial uses opposite the property these are outside the Conservation Area and The Old Crown public house is the only other similar commercial use within the area. Accordingly, by reason of siting, it is not judged that the proposed residential use would unacceptably harm the vitality and character of the Conservation Area.”*
- 10.31 In this regard the proposed flexible change of use to a commercial use (A1/A2/B1a) is not considered to unacceptably harm the character of the conservation area. As there are no proposed external alterations, the proposal to bring the building back into use would preserve and, arguably, enhance the important design elements contributing to the aesthetic value of the building and conservation area.
- 10.32 The building has some communal value arising from its traditional role in the community. The designation as an Asset of Community Value provides evidence towards that. The historic and communal significance of the property, as a pub, at present does not add vitality or vibrancy. Based on the lack of demand as stated above, and without the realistic prospect of the public house coming back into use and given the number of years the site has been vacant, it is not considered justified to withhold planning permission in this case. Consideration is also given the limited historical value, the neutral impact the change of use would have on the area and the appropriate nature of the uses proposed, which are considered to enliven the street and bring the premises back into active use. As such there would be no harm to the conservation area or the locally listed shopfront, both of which are designated and non-designated heritage assets.
- 10.33 Consequently, the scheme would be acceptable with regard to the objectives of London Plan Policy 7.8, which requires development to conserve heritage assets. There would be no conflict with Policy DM2.3 of the Development Management Policies, which seeks to conserve the historic significance of the borough’s heritage assets. Nor would there be conflict with Paragraph 135 of the National Planning Policy Framework (the Framework), which requires the decision maker to take account of the significance of a non-designated heritage asset and to reach a

balanced judgement regarding the scale of any harm. Furthermore, there would be no material harm to the significance of the conservation area, a designated heritage asset, and its character and appearance would be preserved. Accordingly, the duty, under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area, is satisfied. Similarly, the proposal would satisfy paragraph 132 of the Framework, which requires great weight to be given to the conservation of designated heritage assets. It follows that the local policies referred to above would also be satisfied with regard to the effect on the conservation area.

Accessibility

- 10.34 London Plan Policy 7.2 states development should achieve the highest standards of accessible and inclusive design, ensuring that developments can be used safely, easily and with dignity by all regardless of disability, age gender ethnicity or economic circumstances.
- 10.35 Further, Development Management Policy DM2.2 seeks all new developments to demonstrate inclusive design. The principles of inclusive and accessible design have been adopted in the design of this development in accordance with the above policies.
- 10.36 The Planning Statement does not address a number of matters relating to inclusive design and whether the proposal would meet the requirements set out in the Council's Inclusive Design SPD. However, the sites entrance is comprised within a Locally Shopfront, a non-designated heritage asset. Given the existing arrangement and the desirability to preserve this non-designated heritage asset it is considered that limited alterations are possible and therefore the access arrangements are not considered to warrant refusal of the application.

Neighbouring Amenity

- 10.37 Policy 7.6 of the London Plan provides that development should not cause unacceptable harm to the amenity of surrounding properties, particularly residential buildings. At a local level, Policy DM2.1 of the Islington Development Management Policies, requires developments to provide a good level of amenity, including consideration of noise, disturbance, overshadowing, overlooking, privacy, direct daylight and sunlight, over-dominance, sense of enclosure and outlook.
- 10.38 Given that there are no physical changes to the existing scheme it is considered that there will be no resulting issues of overshadowing, overlooking, privacy, loss of daylight and sunlight, over-dominance, sense of enclosure or outlook to neighbouring residential occupiers.
- 10.39 The matter of potential noise disturbance should however be considered with particular regard to material change of uses. The range of flexible uses proposed would permit occupiers such as retailers, estate agents, bank, employment agencies or offices agents.
- 10.40 There are residential properties within close proximity to the rear of the site and above the site in question. A number of objections have been raised in relation to the proposed uses and their activities. Paragraph 4.21 of the DMP states that in assessing the likely impacts of a proposal regard will be had to the type of use, proposed hours of opening, size of premises and servicing measures.

- 10.41 It is important to note the site is located within a Local Shopping Area where there is likely to be a level of activity anticipated by this application. The site itself fronts a busy main road. It is also considered the proposed uses would have less potential to disturb nearby residents than the existing lawful use (public house). Moreover, the operation hours are recommended to be controlled via condition and therefore would end earlier than an operation of a public house, thereby considered an improvement to the overall noise levels and comings and goings within the vicinity. The Environmental Protection Officer has not raised an objection in regards to the proposed uses.
- 10.42 The proposals can therefore be said to be in accordance with Policies DM2.1 and DM4.2 of the Islington Development Management Policies Document which both seek to protect neighbouring amenity.

Highways and Transportation

- 10.43 The site is very well located in relation to public transport and has a PTAL rating of 6a, a high rating. The site is located approximately 300metres from Archway Underground Station, which provides London Underground services on the Northern Line. The site is located approximately 1.2 km away from Highgate Underground Station. The site also benefits from bus routes which travel and stop via Highgate Hill as well as a number of other bus routes via Navigator Square.

Vehicular Parking and Cycle Parking

- 10.44 The application site covers a compact rectangular plot. The building covers the curtilage of the site. The development has no means of private vehicular access or parking and therefore is considered in compliance with policy
- 10.45 Development Management Policy 8.4 (Walking and Cycling), Part C requires the provision of secure, sheltered, integrated, conveniently located, adequately lit, step-free and accessible cycle parking. Given the constraints of the site and excellent transport links it is not considered that a condition is necessary in this instance in order to make the development acceptable in this regard.

Servicing and Deliveries

- 10.46 Part A of DM Policy 8.6 (Delivery and servicing for new developments) requires that delivery/servicing vehicles are accommodated on-site for developments over 200sqm. Where servicing/delivery vehicles are proposed on-street, Development Management Policy DM8.6 (Delivery and servicing for new developments) Part B requires details to be submitted to demonstrate that on-site provision is not practical, and show that the on-street arrangements will be safe and will not cause a traffic obstruction/nuisance.
- 10.47 The site is less than the prescribed standard (140sqm) and the proposed servicing can be carried out in accordance with the existing Controlled Parking Zones restrictions. The proposed servicing arrangements are not considered above and beyond the existing use and would therefore be in compliance with DM8.6.
- 10.48 The site is located in a Controlled Parking Zone (which provides short term visitor parking). The proposal singularly or cumulatively does not fall within the threshold for a Transport Assessment or Travel plan as required by table 5.1 of DMP, and arguably the proposed uses would likely generate less activity in terms of servicing and delivery than based on the lawful use.

10.49 In any event, the area of the site and constraints of the building remain as existing. Moreover, there is no condition at present on the nature of operation of the existing. As such, based on the ability to park within the existing CPZ's, the proposed nature of the uses, the proposal is not considered to generate, any unacceptable impacts above and beyond the existing arrangement. Moreover, the proposal is located in a highly sustainable location close to a number of modes of public transport.

Other Matters

10.50 The previously proposed A3 and D2 elements of the proposal have been removed from the description of development. As such these do not form part of the planning consideration nor assessment of this case.

10.51 Third party representations refer to a change in ownership. Ownership of a site is not a material planning application and the application form certifies that all those with an interest in the land have been notified.

10.52 The assessment took into account B1(a) which comprises offices and no other elements of the B1 use class. Light Industrial uses would be classed as B1(c).

10.53 Each application is to be considered on its own merits. The Archway Town centre has undergone significant change in recent years and further development sites will come forward. However, it is not considered justified to withhold planning permission on the basis of an increase in likely patrons to the Whittington & Cat public house. It is evident that pub has been closed for a significant time without the immediate prospect of being reopened as such. Planning can only assess the situation at present in assessing planning applications generally, the site has been vacant of over 3 years and it is not considered reasonable to withhold permission on the premises what may or may not happen into the future.

11. SUMMARY AND CONCLUSION

Summary

11.1 The proposed loss of the public house and flexible change of use to retail (A1) financial and professional services (A2) or offices (B1(a)) is considered on balance to be acceptable. The proposal would not result in the unjustified loss of the public house, nor would it negatively impact the vitality and viability of either the Archway Town Centre nor the Highgate Hill Local Shopping Area and is likely to have a discernible positive impact overall.

11.2 Although listed as an Asset of Community Value this does not prevent otherwise acceptable development in line with the Local Development Framework. Although this is a material consideration, the proposal overall is considered in accordance with NPPF Paragraph 70 which requires, among other things, that planning should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs. Based on the length of vacancy and satisfactory marketing the loss of the public house would not adversely impact the needs of the local community. The public house was marketed for a substantial amount of time well over 2 years required by policy and the local community did not purchase it within the prescribed timescale.

11.3 The public house is representative of the historical and social value to the area. The pub itself is considered of limited significance to the conservation area. Overall its change of use, whilst unfortunate, would have a neutral impact on the character and

appearance of the conservation area, preserving its setting. Nor would the proposal adversely harm the locally listed shopfront.

- 11.4 The proposal, subject to condition would have no adverse impact on neighbouring occupier's living conditions in terms of loss of daylight or sunlight, increased sense of enclosure, outlook or noise (either by comings and goings or the use in general).
- 11.5 Whilst the proposed development would result in the loss of a public house, on balance the proposal is considered acceptable given the length of vacancy, evidence of marketing, appropriate nature of the proposed uses and no adverse impact on the Archway Town Centre or the Highgate Hill Local Shopping Area.
- 11.6 It is therefore considered acceptable and recommended for approval subject to appropriately worded conditions to mitigate against noise impacts.

Conclusion

- 11.7 It is recommended that planning permission be granted subject to conditions as set out in Appendix 1 - RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That the grant of planning permission be subject to **conditions** to secure the following:

List of Conditions:

1	<p>Commencement</p> <p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
2	<p>Approved Plans List</p> <p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>4506/PA 01; 4506/PA 02B; Planning and Access Statement dated July 2017; Sequential test dated October 2017; Letter dated 17 February 2017; Letter dated 04 February 2015; Viewing Pro Forma 2016; Letter dated 22 June 2017 Copping Joyce; Letter dated 22 June 2017 Strettons & Letter dated 22 June Goodsir Commercial.</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
3	<p>Use Restrictions</p> <p>CONDITION: The flexible change of use is granted only for A1/A2 and B1(a) uses.</p> <p>REASON: To ensure the proposed uses are in accordance with the description of development.</p> <p>RESTRICTED USE (Compliance): Notwithstanding the provision of the Town and Country Planning (Use Classes) Order 1987 (as amended), the premises shall be used only for the purposes indicated in the submitted details (flexible uses for A1/A2 & B1(a)) and not for any other purpose listed within the Town and Country Planning (Use Classes) Order 1987 (as amended).</p> <p>REASON: For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development, in the interests of the use of the building and the amenity of the adjoining neighbours.</p>
4	<p>Hours of Operation</p> <p>CONDITION: The proposed uses shall not be used outside the following times:</p> <p>Monday to Sunday: 7am to 10pm</p> <p>REASON: To ensure the proposal do not have a detrimental impact on residential amenity.</p>

5	Refuse facilities provision Compliance
	<p>CONDITION: The dedicated refuse / recycling and bike storage enclosure(s) shown on approved drawing no. 4506/PA 02A shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter into perpetuity.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to and promote sustainable forms of development.</p>

List of Informatives:

1	Community Infrastructure Levy (CIL) (Granting Consent)
	<p>INFORMATIVE: Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the Mayor of London's CIL Charging Schedule 2012. One of the development parties must now assume liability to pay CIL by submitting an Assumption of Liability Notice to the Council at cil@islington.gov.uk. The Council will then issue a Liability Notice setting out the amount of CIL that is payable.</p> <p>Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed. The above forms can be found on the planning portal at: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</p> <p>Pre-Commencement Conditions: These conditions are identified with an 'asterix' * in front of the short description. These conditions are important from a CIL liability perspective as a scheme will not become CIL liable until all of these unidentified pre-commencement conditions have been discharged.</p>

APPENDIX 2: RELEVANT POLICIES

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

1 National Guidance

The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

Since March 2014 Planning Practice Guidance for England has been published online.

2. Development Plan

The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

A) The London Plan 2016 - Spatial Development Strategy for Greater London, Consolidated with Alterations since 2011

1 Context and strategy

Policy 1.1 Delivering the strategic vision and objectives for London

2 London's places

Policy 2.1 London in its global, European and United Kingdom context

Policy 2.2 London and the wider metropolitan area

Policy 2.9 Inner London

3 London's people

Policy 3.1 Ensuring equal life chances for all

Policy 3.16 Protection and enhancement of social infrastructure

4 London's economy

Policy 4.1 Developing London's economy

Policy 4.2 Offices

6 London's transport

Policy 6.3 Assessing effects of development on transport capacity

Policy 6.7 Better streets and surface transport

Policy 6.9 Cycling

Policy 6.10 Walking

Policy 6.11 Smoothing traffic flow and tackling congestion

Policy 6.12 Road network capacity

Policy 6.13 Parking

7 London's living places and spaces

Policy 7.4 Local character

Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology

B) Islington Core Strategy 2011

Spatial Strategy

Policy C1 (Archway)

Strategic Policies

Policy CS9 (Islington's Built and Historic Environment)

Policy CS13 (Employment Spaces)
CS14 (Retail and services)

C) Development Management Policies June 2013

Design and Heritage

DM2.1 Design

DM2.2 Inclusive Design

DM2.3 Heritage

Shops, culture and services

DM4.4 (Promoting Islington's Town Centres)

DM4.6 (Local Shopping Areas)

DM4.10 (Public Houses)

DM4.12 Social and strategic infrastructure and cultural facilities

Employment

DM5.1 New business floorspace

DM5.4 Size and affordability of workspace

Transport

DM8.3 Public transport

DM8.4 Walking and cycling

DM8.5 Vehicle parking

DM8.6 Delivery and servicing for new developments

3. Designations

The site has the following designations under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:

- Archway Core Strategy Key Area
- Highgate Hill Conservation Area
- Highgate Hill Local Shopping Area
- Locally Listed Shopfront
- Article 4 Direction (A1-A2)

4. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

Islington Local Plan

- Inclusive Design in Islington (2014)
- Highgate Hill Conservation Area Design Guidelines (2002)

London Plan

- Accessible London: Achieving and Inclusive Environment
- Planning for Equality and Diversity in London